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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/720,523	05/02/2001	Rudolf Ritter	236088US6 PCT	1568
22850	7590	03/20/2008	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			FADOK, MARK A	
			ART UNIT	PAPER NUMBER
			3625	
			NOTIFICATION DATE	DELIVERY MODE
			03/20/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	09/720,523	RITTER, RUDOLF	
	Examiner	Art Unit	
	MARK FADOK	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-47 is/are pending in the application.
- 4a) Of the above claim(s) 21,22,26-31,34,36-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-25,32,33,35 and 39-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

The examiner is in receipt of applicant's response to office action mailed 8/14/2007, which was received 10/30/2007. Acknowledgement is made to the amendment to claims 32,39 and 42, cancellation of claims 1-20, the withdrawal of claims 21,22,26-31,34,36-38 leaving claims 23-25,32,33,35 and 39-47 as open to prosecution. The examiner withdraws the previous restriction by original presentation found in office action mailed 8/14/2007. The examiner has carefully considered applicant's amendment and remarks and finds them persuasive. However after further search and consideration the previous rejected modified as necessitated by amendment follows:

Examiner's Note

Examiner has cited particular columns and line numbers or figures in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 23,25,32,33,34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ali-Vehmas et al (US 6,035,189) in view of Morrill, Jr (US 5,991,749), in view of Sehr (6,999,936) and further in view of Sando.

In regards to claim 32, Ali-Vehmas discloses a method for selling products over a mobile radio network, the mobile radio network including a plurality of participants and being coupled to a sales module, comprising:

Ali-Vehmas teaches storing offers at a central location (col 5, line 15-35), and providing information such as product and quantity information (col 7, lines 25-27).

Applicant may argue that the information is not stored on the sales module, but this is not specifically claimed. Further, applicant's specification page 7 states that the information is stored either the same computer (sales module) or on another computer accessible by the sales module (possibly the vendor). Therefore Ali-Vehmas teaches this feature.

transmitting via a transmission channel an offer to the plurality of participants in of the mobile radio network (col 7, lines 15-30);

receiving an order data in the sales module from a participant of the plurality of

participants via the mobile radio network in response to the transmitting of the offer, the

order data including a request for a product of the specified products and an identification of the participant (It is clear that Ali-Vehmas teaches receiving such a request and then passes it along to the vendor, col 5, lines 60-65); confirming by the sales module that the limited available number of the specified products is greater than zero (the sales module once again processes this information and transmits it through to the user col 7, lines 25 and 26);

Ali-Vehmas teaches the use of an intelligent cell phone to communicate reservation of products such as event tickets and a means for payment of such services or products, but does not specifically mention that a token exchangeable for the product is forwarded to both the vendor and the participant. Morrill teaches an order and payment process that sends a confirmation including an authorization code that consummates the sale purchase of goods or services (FIG 1A-1E). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Ali-Vehmas a token exchangeable for the product is forwarded to both the vendor and the participant, because this will assure that the transaction has been properly authorized and completion of the transaction is confirmed (Morrill, col 1, lines 55-60).

The combination of Ali-Vehmas and Morrill, Jr. teach arriving at a sold out condition and delivering an electronic voucher to a cell phone, but does not specifically mention adjusting the quantity information in the sales module based on the token. Sehr teaches reducing the availability of seating based on the distribution of an electronic ticket (col 8, lines 30-60). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in the combination of Ali-Vehmas and Morrill, Jr.

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reducing the availability of seating based on the distribution of an electronic ticket as taught by Sehr, because this would keep track of the sales and assure that a seat that is reserved is not given to another, thus minimizing frustration of the consumer arriving at a venue to find someone else in the seat.

In regards to the feature, “the sales module functioning as a distinct central entity from the vendor”, the examiner notes that it was well known in the art to sell tickets from an entity that is separate from the operator of a venue where tickets may be purchased. Sando is one such example where an entity distinct from the operator of a venue sells tickets from an operator such as Ticket Master. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Ali-Vehmas, Morrill, Jr and Sehr, selling a venue’s tickets from a entity that is distinct from the operator of a venue, because this will increase the marketing and availability of tickets to the public by utilizing existing sales channels and thus increase sales without having to increase in house support staff.

Further, it is noted that all of the elements of the cited references perform the same function when combined as they do in the prior art . Thus such a combination would have yielded predictable results (see Sakraida, 425 US at 282, 189 USPQ at 453. Since the independent claims only unite old elements with no change in there respective functions the claimed subject matter would have been obvious under KSR, 127 S. Ct at 1741, 82 USPQ2d at 1396.

In regards to claim 23, the combination of Ali-Vehmas and Morrill, Sehr and Sando teach wherein the order data includes a requested quantity of the products (col 5, lines 65-67).

In regards to claim 25, the combination of Ali-Vehmas and Morrill, Sehr and Sando teach wherein the token includes a delivery number (Morrill, FIG 1E).

In regards to claim 33 and 34, the combination of Ali-Vehmas and Morrill, Sehr and Sando teach wherein the product includes at least one of goods and services (col 5, lines 64-67).

In regards to claim 35, the combination of Ali-Vehmas and Morrill, Sehr and Sando teach wherein, the text messaging protocol is a SMS protocol, the broadcasting includes transmitting the offer information in multiple SMS short messages to the plurality of participants, and the transmitting of the token to the participant includes transmitting the token in a SMS short message to a mobile communications device of the participant (col 7, lines 5-35).

Claims 39-47 are considered parallel claims to the claims supra and are rejected for the same Rationale.

Response to Arguments

Applicant's arguments with respect to claims 23,24,25,32,33,35,39-47 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

or faxed to:

571-273-8300 [Official communications; including
After Final communications labeled
"Box AF"]

For general questions the receptionist can be reached at

571.272.3600

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Mark Fadok/

Primary Examiner, Art Unit 3625